

**Notice of Allowability**

Application No.

09/863,074

Examiner

Matthew F DeSanto

Applicant(s)

O'HOLLORAN ET AL.

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/16/04.
2. ☒ The allowed claim(s) is/are 21-23 and 26.
3. ☒ The drawings filed on 21 May 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                              |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>6/2/04</u> |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                     |
|   | 9. <input type="checkbox"/> Other _____  |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Glenn Brown on 6/2/04.

The application has been amended as follows:

Claim 21:

A surgical tool for depositing material within living tissue, comprising:

- a delivery tube for penetrating living tissue and delivering material to within living tissue;
- an inner member held within the delivery tube to push material through the tube;
- a releasable lock operatively connected to the tube to selectively limit movement of the inner member relative to the tube, said lock including outwardly biased arms and locking surfaces formed on fingers extending inwardly from the arms, wherein the locking surfaces are approximately V-shaped; and
- a tab formed on at least one of the fingers and operable to interlock with a hole on an opposing finger to hold the arms in a partially closed position.

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Claim 22:

A surgical tool for depositing material within living tissue, comprising:

- a delivery tube for penetrating living tissue and delivering material to within living tissue;
- an inner member held within the delivery tube to push material through the tube;
- a releasable lock operatively connected to the tube to selectively limit movement of the inner member relative to the tube, said lock including outwardly biased arms and locking surfaces formed on fingers extending inwardly from the arms, wherein the locking surfaces are approximately V-shaped; and
- a tab formed on at least one of the fingers and operable to interlock with a hole on an opposing finger to hold the arms in a partially closed position, wherein the holes and fingers are sized such that limited or no contact occurs between the locking surfaces and the inner member, when the arms are squeezed toward one another to a fully squeezed position.

Claim 23:

A surgical tool for depositing material within living tissue, comprising:

- a delivery tube for penetrating living tissue and delivering material to within living tissue;
- an inner member held within the delivery tube to push material through the tube;
- a releasable lock operatively connected to the tube to selectively limit movement of the inner member relative to the tube, said lock including outwardly biased arms and locking surfaces formed on fingers extending inwardly from the arms, wherein the locking surfaces are approximately V-shaped; and
- a tab formed on at least one of the fingers and operable to interlock with a hole on an opposing finger to hold the arms in a partially closed position, wherein the holes and fingers are sized such that frictional contact with the inner member occurs when the arms are squeezed toward one another to a fully squeezed position, so that the inner member may be locked in both the unsqueezed position and the fully squeezed position of the arms.

Claim 26:

A surgical tool for depositing material within living tissue, comprising:

- a delivery tube for penetrating living tissue and delivering material to within living tissue;
- an inner member held within the delivery tube to push material through the tube;
- a releasable lock operatively connected to the tube to selectively limit movement of the inner member relative to the tube, said lock including outwardly biased arms and locking surfaces formed on fingers extending inwardly from the arms, wherein the locking surfaces are approximately V-shaped; and
- a tab formed on at least one of the fingers and operable to interlock with a hole on an opposing finger to hold the arms in a partially closed position, wherein the lock includes a spring for holding the lock in a biased, locking position.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Matthew DeSanto  
Art Unit 3763  
January 31, 2005



NICHOLAS D. LUCCHESI  
SUPERVISORY PATENT EXAMINER  
TECHNICAL CENTER